IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4796 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAMRAT HEAVY LIFTERS

Versus

STATE OF GUJARAT, THROUGH HOME SECRETARY

Appearance:

MR BG JANI for Petitioner

MR KT DAVE, AGP for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/08/2000

ORAL JUDGEMENT

By order dated 15.5.2000 this Court issued Rule on the petition and also issued notice as to interim relief. The matter had earlier come up for hearing of interim relief and in view of the submissions made by the learned AGP, hearing of interim relief was deferred as stated in the order dated 12.7.2000. The matter has

again come up for hearing of interim relief and with the consent of the learned counsel for the parties, the petition is taken up for final disposal today.

2. It is the case of the petitioner herein that the present petitioner is one of the petitioners in Special Civil Application No. 1308/2000 and that the petitioner has already paid the motor vehicle tax at the old rate at the RTO office, Bhuj for the period upto June, 2000 in terms of the orders passed in Special Civil Application No. 1308/2000 which was followed in Special Civil Application No. 3011/96. It is further stated that the petitioner has also filed an undertaking as required by this Court's orders that the petitioner shall pay the amount of tax at the new rate (i.e. the differential amount) in case Special Civil Application No. 1308/2000 and cognate petitions are dismissed, within 15 days from the date of the judgment in case the decision is adverse to the petitioner or within the stipulated time as may be given by the Court while disposing of the petitions. The question of payment of penalty, if any, shall also be considered at an appropriate stage. This is without prejudice to the petitioner's contention that the petitioner is not liable to pay penalty on the amount of tax as the same has already been paid at the old rate.

3. In view of the above, subject to the undertaking being filed as stated above, the respondents are directed to release the petitioner's crane bearing registration No. MAR-4913 and shall also return all the original documents pertaining to this crane to the petitioner within two days from the date of receipt of this order.

4. The Court has taken into account the judgment dated 9.5.2000 of the learned Single Judge (Coram : Hon'ble Mr Justice M.R. Calla) in Special Civil Application No. 2424/2000 and cognate petitions while passing this order.

Rule is made absolute to the aforesaid extent with no order as to costs.

Direct Service is permitted.

August 7, 2000 (M.S. Shah, J.)
sundar/-